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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Federal State Joint Board
on Universal Service

Forward-Looking Mechanism
for High Cost Support for
Non-Rural LECs

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CC Docket No. 96-45

CC Docket No. 97-160

DA 98-715

REPLY COMMENTS
of the
RURAL TELEPHONE COALITION

The Rural Telephone Coalition (RTC) files these reply comments to the Notice requesting comments on proposals to modify the Commission's methodology for determining universal service support. The RTC is comprised of the National Rural Telecom Association (NRTA), the National Telephone Cooperative Association (NTCA) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO). Together, the three associations represent more than 850 small and rural telephone companies.

DISCUSSION

Generally, commenters agree with RTC's continued position that it would be premature to impose any of the alternatives on rural telephone companies at this time. We submit these reply comments to buttress a few specific issues raised by commenters and to challenge a few others.

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First, a number of State Commissions agree with the RTC and reflect the concern that mechanisms must target small service area levels to adequately support high cost areas in a competitive environment.¹ The Ohio Commission says that a key flaw² in the Ad Hoc proposal is “that it relies exclusively on statewide average costs, as opposed to some significantly smaller level of disaggregation to determine cost of service.” Specifically, Ohio believes the methodology should be based on a small geographic unit within a state such as census block groups (CBGs) or wire centers.³ The Iowa Utilities Board says that using a large geographic area to calculate support averages high cost and low cost areas understating the amount of support needed in high cost areas.⁴ Iowa cites the FCC and Joint Board on Universal Service criterion number ten for a federal or state cost study of model which acknowledges the need to calculate support on a wire center serving area or smaller area.⁵ The RTC also agrees with the United States Telephone Association (USTA) that the Commission should resolve pending issues raised on reconsideration before proceeding further.⁶ Disaggregation by rural LECs is one of those issues.

However, RTC disagrees with some other specific commenters suggestions. Bell Atlantic suggests rural LECs should continue to receive support under existing mechanism while its

¹ The RTC also made the point that any plan should provide for support on a disaggregated basis to avoid cream skimming in a competitive environment. RTC at 9.

² Ohio at 5.

³ Ohio at 6.

⁴ Iowa at 4.

⁵ Iowa at 4 and Federal-State Joint Board on Universal Service, Docket No. CC 96-45, *Report and Order* (May 8, 1997), ¶ 250.

⁶ USTA at 5.

proposal modifying the Ad Hoc proposal is phased in over a three year period. The Bell proposal modifies Ad Hoc by, among other things, determining statewide average cost on the basis of an average of actual costs and averaged proxy models results. While RTC was unable to evaluate thoroughly this late submitted proposal, it agrees with Bell Atlantic, that Ad Hoc is relying on flawed proxy models. However, it is concerned that the Bell Atlantic modification accepts the premise that the federal role is limited to concerns that require a distribution of funds from one state to another.

The federal role must address rate and service “comparability” between high cost rural areas and urban areas. As the RTC previously stated, the mandate to achieve “comparability” is not conditioned on the establishment of thresholds that require the states to act before federal support is available. RTC⁷ agrees with the Competitive Policy Institute (CPI) statement that costs variances among regions and geography necessarily imply that “the federal high cost fund must shift telecommunications revenues among regions and among states” to achieve comparability.⁸

RTC also disagrees with portions of Ameritech’s comments. Ameritech introduces its comments with assertions intended to show that certain Michigan, Ohio, and Wisconsin companies do not need support. Ameritech submits a sample showing that universal service fund (USF) recipients serving in the same states it serves have lower rates than it does.⁹ Ameritech’s assertions are neither germane nor accurate. For example, this information is incorrect for the

⁷ RTC at 16.

⁸ CPI at 3.

⁹ Ameritech at 2.

four Michigan companies. The four companies are members of the RTC associations. These companies' rates are not in the \$3.76 to \$7.56 range shown but are almost equal to Ameritech's rates. On March 20, 1998, the Michigan PSC approved a \$13.05 monthly residential rate for basic local exchange service (including touch tone charges) for these companies.¹⁰ Even if the rates were what Ameritech claims, they would not show that support is not needed to keep local rates and the overall consumer bill comparable. Ameritech also fails to point out the differences in calling scope between its customers and those of the cited companies. For example, an Ameritech residential subscriber in Michigan may reach hundreds of thousands of subscribers for its basic \$13.00 rate. In contrast, the local calling area for Drenthe Telephone Company customers, who are now paying \$13.05, is approximately 6,000 subscribers. Obviously those consumers incur higher toll charges to make calls to communities they depend on for services outside the narrow 6,000 subscribers in the Drenthe local calling area. Additionally, Ameritech's reference to the services offered by Valley Telephone and Roanoke & Botetourt¹¹ argues for rather than against support for rural telcos. The very purpose of support is to ensure that consumers in rural areas have access to advanced services.

¹⁰ Michigan Public Service Commission Order, Case No. U-11641, March 20, 1998. Attachment

¹¹ Ameritech at 3.

CONCLUSION

The RTC respectfully urges the Commission to maintain the transition plan for rural ILECs and to allow rural telephone companies to do, unimpeded, what they do best: serve their local rural customers. The RTC further urges the Commission to reconsider its Universal Service Order and adopt the improvements in the transition plan that the RTC supported in its Petition for Reconsideration.

Respectfully submitted,

THE RURAL TELEPHONE COALITION

NRTA

NTCA

OPASTCO

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May 29, 1998

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)

ACE TELEPHONE COMPANY OF MICHIGAN,)

INC., ALLENDALE TELEPHONE COMPANY,)Case No. U-11641

BARAGA TELEPHONE COMPANY, BARRY)

COUNTY TELEPHONE COMPANY, BLANCHARD)

TELEPHONE ASSOCIATION, INC., BLOOMING-)

DALE TELEPHONE COMPANY, CARR)

TELEPHONE COMPANY, CENTURY TELEPHONE)

COMPANY OF MICHIGAN, INC., CENTURY)

TELEPHONE MIDWEST, INC., CENTURY)

TELEPHONE OF NORTHERN MICHIGAN, INC.,)

CHATHAM TELEPHONE COMPANY, CHIPPEWA)

COUNTY TELEPHONE COMPANY, CLIMAX)

TELEPHONE COMPANY, COMMUNICATIONS)

CORPORATION OF MICHIGAN, DRENTHE)

TELEPHONE COMPANY, FRONTIER COMMUNI-)

CATIONS OF MICHIGAN, INC., HIAWATHA)

TELEPHONE COMPANY, ISLAND TELEPHONE)

COMPANY, KALEVA TELEPHONE COMPANY,)

LENNON TELEPHONE COMPANY, MIDWAY)

TELEPHONE COMPANY, OGDEN TELEPHONE)

COMPANY, ONTONAGON COUNTY TELEPHONE)

COMPANY, PENINSULA TELEPHONE COMPANY,)

SHIAWASSEE TELEPHONE COMPANY,)

SPRINGPORT TELEPHONE COMPANY, UPPER)

PENINSULA TELEPHONE COMPANY, WALDRON)

TELEPHONE COMPANY, WESTPHALIA)

TELEPHONE COMPANY, WINN TELEPHONE)

COMPANY, and WOLVERINE TELEPHONE)

COMPANY to determine their rates for basic local

COMPANY to restructure their rates for basic local)

exchange service.)

)

In the matter of the application of)

PIGEON TELEPHONE COMPANY and)

DEERFIELD FARMERS' TELEPHONE COMPANY)Case No. U-11643

to restructure their rates for basic local exchange)

service.)

)

At the March 20, 1998 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman

Hon. John C. Shea, Commissioner

Hon. David A. Svanda, Commissioner

OPINION AND ORDER

On February 25, 1998, Ace Telephone Company of Michigan, Inc., Allendale Telephone Company, Baraga Telephone Company, Barry County Telephone Company, Blanchard Telephone Association, Inc., Bloomingdale Telephone Company, Carr Telephone Company, Century Telephone Company of Michigan, Inc., Century Telephone Midwest, Inc., Century Telephone of Northern Michigan, Inc., Chatham Telephone Company, Chippewa County Telephone Company, Climax Telephone Company, Communications Corporation of Michigan, Drenthe Telephone Company, Frontier Communications of Michigan, Inc., Hiawatha Telephone Company, Island Telephone Company, Kaleva Telephone Company, Lennon Telephone Company, Midway Telephone Company, Ogden Telephone Company, Ontonagon County Telephone Company, Peninsula Telephone Company, Shiawassee Telephone Company, Springport Telephone Company, Upper Peninsula Telephone Company, Waldron Telephone Company, Westphalia Telephone Company, Winn Telephone Company, and Wolverine Telephone Company filed an application for approval to restructure their rates for basic local exchange service, pursuant to Section 304a of the Michigan Telecommunications Act, MCL 484.2304a; MSA 22.1469(304a). Also on February 25, 1998, Pigeon Telephone Company (Pigeon) and Deerfield Farmers' Telephone Company (Deerfield) filed an application for the same purpose.

Section 304a requires providers of basic local exchange service to restructure their rates for basic local exchange, toll, and access services to ensure that, no later than January 1, 2000, the rates for those services are not less than the total service long run incremental cost (TSLRIC) of providing each service. Providers that serve less than 250,000 end-use customers, such as the 33 applicants in these cases, may determine the TSLRIC of those services through the preparation of cost studies or by adopting the TSLRIC study of a provider with more than 250,000 end-use customers. On January 28, 1998, the Commission issued an order in Case No. U-11448 approving, with modification, the TSLRIC study of the Michigan Exchange Carriers Association, which was filed on behalf of 24 companies. On February 25, 1998, the Commission issued an order in Case No. U-11281 approving, with modification, the TSLRIC study of GTE North Incorporated (GTE). Each of the applicants relies on one of those TSLRIC studies.

The applicants represent that, as a result of action by the Federal Communications Commission, their access revenues have been substantially reduced as of January 1, 1998. In response, Ameritech Michigan, GTE, MCI Telecommunications Corporation, AT&T Communications of Michigan, Inc., and Sprint Communications Company, LP, as interexchange carriers, have entered into an agreement that will provide to the applicants temporary support revenues to offset partially the reduction in access revenues. One term of that agreement substantially reduces the temporary support revenues if the applicants do not restructure their basic local exchange rates prior to March 31, 1998.

Section 304a(5) provides that if the Commission has not acted on a request to restructure rates within 90 days, the request may be treated as approved and implemented 10 days later. If the Commission issues an order approving the restructuring, the new rates also cannot take effect until 10 days later. Consequently, to meet the agreement's requirement that rates be restructured by April 1, 1998, the applicants cannot wait to self-implement the proposed restructuring of their rates and, in fact, need Commission approval by March 20, 1998.

Accordingly, the companies other than Pigeon and Deerfield request that the Commission approve their request to increase their rates for basic local exchange service (including touchtone charges) to no more than the current weighted average basic local exchange (urban) rate of Ameritech Michigan and GTE, \$13.05 per month for residential service and \$12.67 per month for business service, although they will not increase any rate at this time by more than 100% and will not increase any rate that is above the current weighted average rate. They also represent that if the Commission approves their request, they will not seek to implement a further restructuring before January 1, 1999. In addition, they request

approval at this time to implement additional increases on January 1, 1999, although rates above the current weighted average would be unchanged. On the other hand, if the Commission does not approve their proposal by March 20, 1998, they seek approval to implement the January 1, 1999 rates at this time and reserve the right to implement further increases before December 31, 1998. They state that all of the proposed rates are maximum rates, and they retain discretion to implement smaller increases. Finally, they note that the increases they seek to implement now will leave their rates below TSLRIC and, consequently, are only an initial step in the restructuring required by the Michigan Telecommunications Act.

Pigeon and Deerfield seek approval to increase all of their rates that are below the benchmark rates to \$13.05 and \$12.67 for residential and business services, respectively, except for one exchange for which Pigeon proposes a 100% increase and the rate will still be less than \$13.05. Their business rates that are above \$12.67 will not be increased. Pigeon and Deerfield also seek approval by March 20, 1998. Finally, they note that their rates will still be below TSLRIC and further increases will be required.

When the Legislature enacted the Michigan Telecommunications Act, it made the decision that, by January 1, 2000, basic local exchange rates were to be no less than the TSLRIC of providing that service. The Legislature also made the judgment that decisions about the timing of the increases needed to bring rates to TSLRIC were to be made by the providers of the service, not by the Commission.

These companies have decided to begin the restructuring of their rates before the statutory deadline of January 1, 2000, as they have the legal right to do. Under Section 304a, the Commission's only role is limited to determining that the proposed rates are not less than TSLRIC or that the restructuring moves rates closer to that standard. The current rates that these companies charge for basic local exchange service are below TSLRIC (some are well below TSLRIC), and the proposed increases will bring those rates closer to TSLRIC. Consequently, there is no legal basis for the Commission to reject the proposed restructuring. The only issue for the Commission is whether to approve the restructuring by March 20, 1998 or to withhold action, which will force the companies to delay implementation of the increases but, in some instances, will also force the companies to seek larger increases.

The applicants have failed to explain in any manner why they delayed the filing of their applications until Commission action within weeks would be required to maximize their recovery under the support agreement. On the other hand, because the companies can increase their rates by early June even if the Commission withholds approval, and because the increases could be larger and additional increases could occur sooner if the Commission does not act, the Commission concludes that it should not withhold approval.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended by 1995 PA 216, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACSR 460.17101 et seq.
- b. The applications to restructure basic local exchange service rates should be approved.

THEREFORE, IT IS ORDERED that the applications to restructure basic local exchange service rates, filed on February 25, 1998 by Ace Telephone Company of Michigan, Inc., Allendale Telephone Company, Baraga Telephone Company, Barry County Telephone Company, Blanchard Telephone Association, Inc., Bloomingdale Telephone Company, Carr Telephone Company, Century Telephone Company of Michigan, Inc., Century Telephone Midwest, Inc., Century Telephone of Northern Michigan, Inc., Chatham Telephone Company, Chippewa County Telephone Company, Climax Telephone Company, Communications Corporation of Michigan, Drenthe Telephone Company, Frontier Communications of Michigan, Inc., Hiawatha Telephone Company, Island Telephone Company, Kaleva Telephone Company, Lennon Telephone Company, Midway Telephone Company, Ogden Telephone Company, Ontonagon County Telephone Company, Peninsula Telephone Company, Shiawassee Telephone Company, Springport Telephone Company, Upper Peninsula Telephone Company, Waldron Telephone Company, Westphalia Telephone Company, Winn Telephone Company, Wolverine Telephone Company, Pigeon Telephone Company, and Deerfield Farmers' Telephone Company, are approved, provided that each company may not increase any rate above the total service long run incremental cost of that service.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand

Chairman

(S E A L)

/s/ John C. Shea

Commissioner

/s/ David A. Svanda

Commissioner

By its action of March 20, 1998.

/s/ Dorothy Wideman

Its Executive Secretary

each company may not increase any rate above the total service long run incremental cost of that service.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of March 20, 1998.

Its Executive Secretary

In the matter of the application of)

ACE TELEPHONE COMPANY OF MICHIGAN,)

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TELEPHONE COMPANY, WINN TELEPHONE)
COMPANY, and WOLVERINE TELEPHONE)
COMPANY to restructure their rates for basic local)
exchange service.)
)**

Suggested Minute:

"Adopt and issue order dated March 20, 1998 approving the restructuring of basic local exchange rates for Ace Telephone Company of Michigan, Inc., Allendale Telephone Company, Baraga Telephone Company, Barry County Telephone Company, Blanchard Telephone Association, Inc., Bloomingdale Telephone Company, Carr Telephone Company, Century Telephone Company of Michigan, Inc., Century Telephone Midwest, Inc., Century Telephone of Northern Michigan, Inc., Chatham Telephone Company, Chippewa County Telephone Company, Climax Telephone Company, Communications Corporation of Michigan, Drenthe Telephone Company, Frontier Communications of Michigan, Inc., Hiawatha Telephone Company, Island Telephone Company, Kaleva Telephone Company, Lennon Telephone Company, Midway Telephone Company, Ogden Telephone Company, Ontonagon County Telephone Company, Peninsula Telephone Company, Shiawassee Telephone Company, Springport Telephone Company, Upper Peninsula Telephone Company, Waldron Telephone Company, Westphalia Telephone Company, Winn Telephone Company, Wolverine Telephone Company, Pigeon Telephone Company, and Deerfield Farmers' Telephone Company, as set forth in the order."

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Repoy Comments of the National Telephone Cooperative Association in CC Docket No. 96-45/CC Docket No. 97-160 was served on this 29th day of May 1998, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:


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